PB-217 680

DIGEST OF WATER POLLUTION CONTROL LEGISLATION. RHODE ISLAND

Public Health Service
Washington, D. C.

September 1958

DISTRIBUTED BY:

NTIS

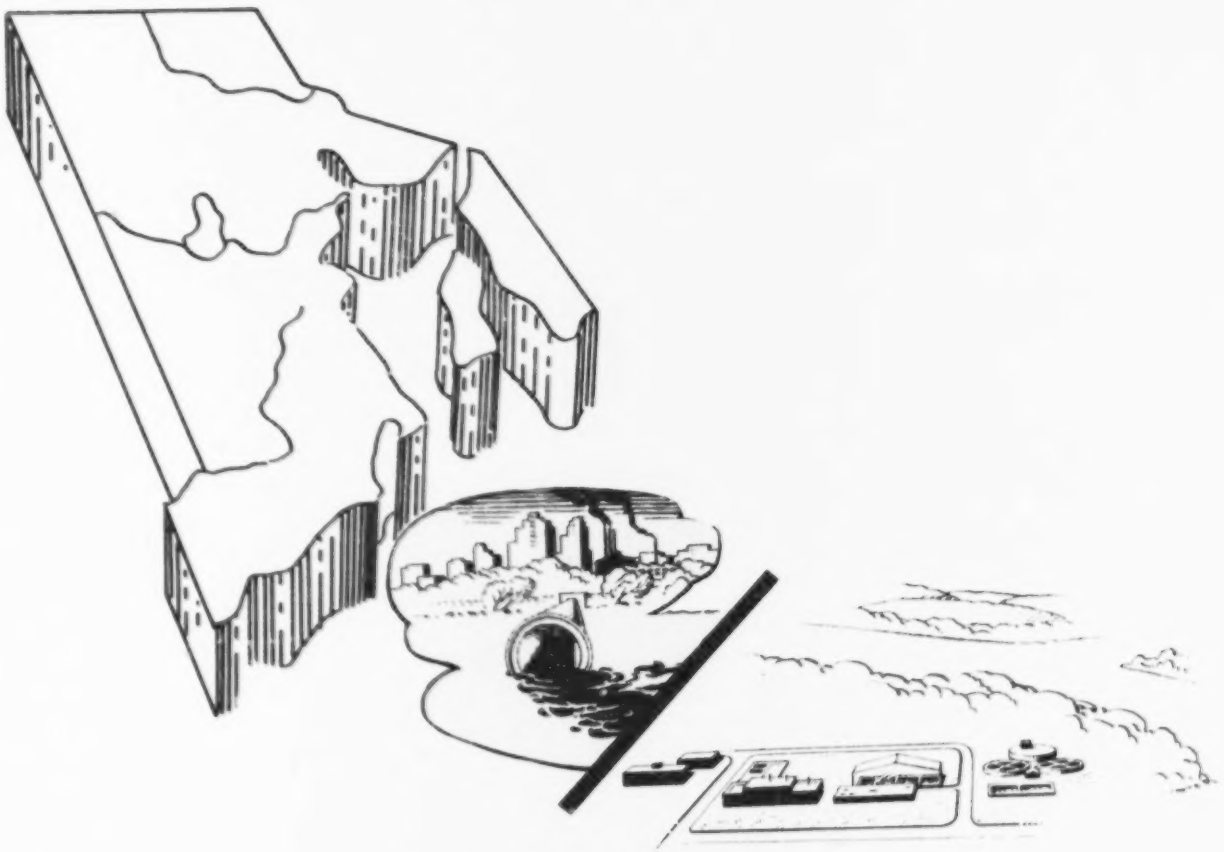
National Technical Information Service
U. S. DEPARTMENT OF COMMERCE
5285 Port Royal Road, Springfield Va. 22151

TD 420
Ref

PB 217 680

LIBRARY
SANITARY ENGINEERING CENTER
CINCINNATI, OHIO

Digest of WATER POLLUTION CONTROL LEGISLATION ...Rhode Island



Reproduced by
NATIONAL TECHNICAL
INFORMATION SERVICE
U.S. Department of Commerce
Springfield VA 22151

U.S. DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE
Public Health Service

10

Section 3 of the Federal Water Pollution Control Act (33 U.S.C. 466b) directs the Public Health Service to "encourage the enactment of improved and, so far as practicable, uniform State laws relating to the prevention and control of water pollution."

This Digest is one of a series prepared by the Public Health Service as a service to the States and others interested in these objectives. Cooperation of State officials in the preparation of these digests is gratefully acknowledged.

September 1958

DIGEST OF RHODE ISLAND WATER POLLUTION LEGISLATION

I. GENERAL STATEMENT

The Division of Sanitary Engineering in the Department of Health has the responsibility of enforcing the water pollution laws of the State (Sec. 46-12-4)[1/].

The Department of Health, in addition to its other functions, exercises control over the waters of the State which are used for drinking and domestic purposes (Secs. 46-13-1-7, 46-14-1-5).

The Act defines "pollution" to mean the discharge of sewage into any of the waters of the State in such quantity as to cause or be likely to cause, either by itself or in connection with other sewage so discharged, damage to the public, or to any person having a right to use said waters for boating, fishing or other purposes, or owning property in, under or bordering upon the same (Sec. 46-12-1).

The term "sewage" means any human or animal excremental liquid or substance, any decomposed animal or vegetable matter, garbage, offal, filth, waste, chemicals, acid, dyestuff, starch, coloring matter, oil and tar, and any compound or product thereof, and every substance which may be injurious to public health or comfort, or which would injuriously affect the natural and healthy propagation of any fish or shellfish in the waters of the State, or which would injuriously affect their flavor or value as food; or which would injure or defile any vessel, boat, wharf, pier, or any public or private property upon, in or under said waters, or any shore thereof (Ibid).

The term "waters" includes all tidewaters within the State and all inland waters of any river, stream, brook, pond or lake (Ibid).

1/ Citations in this digest refer to the General Laws of Rhode Island, 1956, unless otherwise indicated.

Reproduced from best available copy.

II. ADMINISTRATIVE ORGANIZATION

Department of Health

1. Composition and organization

The Director of Health, who is the head of the Department, is appointed by the Governor. The Director appoints the Chief of the Division of Sanitary Engineering, which Division is charged with the responsibility of enforcing the water pollution laws of the State (Secs. 42-6-3, 46-12-2, 46-12-4).

There is an Advisory Council within the Department consisting of 5 qualified electors of the State, not more than 4 of whom are to be members of the same political party, who are appointed by the Governor for overlapping terms of 5 years. The members of the Council elect one of their members as Chairman. Although it does not have any administrative powers, the Council makes suggestions to and advises the Director of the Department concerning policies, rules and regulations (Secs. 23-1-10-11-12)

2. Powers and duties

a) General powers

The Division is authorized to regulate or prohibit the pollution of the waters of the State (Sec. 46-7-6).

b) Review of plans

Anyone having any sewer discharging into any waters of the State, or upon the shores or beaches thereof, upon the request of the Division, must submit a plan and state not describing all such sewers or drains giving their size and location, showing appurtenances and giving the

volume and character of sewage discharged from each, together with an adequate plan and description of any facilities employed to purify the sewage; such statements are not to be open to public inspection, unless the party involved is a municipal corporation (Sec. 46-12-25).

Before any city or town is permitted to issue any evidence of indebtedness for the payment of pollution control facilities, it must submit to the Department for approval all plans and specifications for such works (Sec. 46-12-32).

c) Enforcement

When the Chief of the Division has reason to believe that some one is polluting State waters or on complaint made to him of that fact, he investigates such matter. For such purpose, he may hold public or private hearings, summon witnesses and take testimony under oath. Before a finding is made by the Chief, the alleged polluter must be granted a hearing on at least 20 days notice (Sec. 46-12-5). If, after the investigation, the Chief finds that such person is polluting the waters of the State, he enters an order directing such person to adopt some practicable and reasonably available means to prevent pollution. Such order may specify the particular means to be adopted, provided, that where there is more than one such means, such order must give the polluter the right to adopt any one of said means (Sec. 46-12-8). The order must specify the time within which the means must be adopted. Such time may be extended by the Chief upon application made to him by the affected party, and any such order may be modified by the Chief in any other particular (Sec. 46-12-9).

Where the order does not specify what means are to be adopted, the polluter, before installing any such means, must submit to the Division a plan or statement describing the means he proposes to adopt. If he subsequently desires to make any substantial change in such means, he must, before proceeding to do so, file with the Division a plan or statement describing such change. The Division is authorized, upon the application of any person at any time, to enter an order approving any such means which he has adopted or may desire to adopt (Sec. 46-12-10).

The Division must serve an attested copy of each order entered by it upon the person affected thereby in the same manner as writs of summons in actions at law are served (Sec. 46-12-11). Any order of the Division may, after at least 20 days' notice in writing to the person affected thereby and after a hearing, be modified or revoked by the Chief of the Division (Sec. 46-12-12).

The Chief of the Division is authorized to inspect and make orders regulating all means employed on any vessel in the waters of the State, or at any installation on land, for receiving, carrying, storing, heating, handling or discharging any petroleum, gasoline, kerosene, tar, oil, or any product thereof, and the Chief may, by order, establish all rules and regulations to prevent their discharge into State waters (Sec. 46-12-15). Before making any such order, a hearing upon 30 days notice must be granted to all interested persons (Sec. 46-12-16).

Violation of an order of the Chief or of the Division is punishable by a fine of not more than $500.00 or by imprisonment for not more than one year, or by both; each month or part thereof during which a violation continues is considered a separate offense (Sec. 46-12-14).

All prosecutions for violation of any order of the Division are conducted by the Attorney General and brought in the District Courts of the State. Relief may be obtained by the Division in equity or by prerogative writ (ordering the performance of specific acts or prohibiting the continuation of offenses) whenever necessary in the proper performance of duties under the Act (Sec. 46-12-17).

No one can be found guilty in any criminal prosecution or in any other proceeding brought in behalf of the State, the Division, the Chief, or the public, to enjoin or punish for water pollution unless the defendant has violated an order of the Division or the Chief issued under the authority of the Act (Sec. 46-12-18).

The Superior Court has jurisdiction in equity to enforce the provisions of the Act and any order made by the Division or its Chief, in conformity with the Act. The Attorney General brings the action in the name of the Division or its Chief (Sec. 46-12-19).

Anyone aggrieved by any order of the Division directing such person to adopt or operate a means to prevent pollution, modifying or revoking any such order, or dismissing any complaint or application, may appeal to the Supreme Court for a reversal thereof on the ground that the order is unlawful or unreasonable. Such person must, within 7 days from the service of the order appealed from, file a petition with the clerk of the Supreme Court setting forth the grounds upon which he claims that the order is unlawful or unreasonable. While the appeal is pending the order of the Division must be complied with; however, the Court may, after notice to interested parties, order that such appeal operate as a stay (Secs. 46-12-20, 46-12-21).

If, upon the appeal, newly-discovered evidence is introduced by the appellant and is found by the court of sufficient importance to warrant a reconsideration of the order, the court may transmit a copy of such evidence to the Division and stay further proceedings. Upon receipt of such evidence the Chief of the Division considers the same and may amend or rescind the order. He reports his action to the Court within 50 days from receipt of such evidence. If the Chief rescinds the order, the appeal is dismissed. If he amends the order, the amended order takes the place of the original and the Court must render its decree thereon. If the original order is not amended or rescinded by the Chief, the final decision of the Court is rendered upon such original order and the final decree is entered in conformity therewith (Sec. 46-12-23).

d) Cooperation with other public and private agencies

The Chief of the Division, on his own motion or at the request of any person discharging sewage into any of the waters of the State, must consult with and advise such person as to the best practicable and reasonably available means to prevent such sewage from polluting the waters (Sec. 46-12-24).

e) Administrative powers

The Division is authorized to hold hearings, issue orders and subpoenas, and examine witnesses. The Chief of the Division may employ professional or expert services in making any investigation or in conducting any prosecution. The Division is authorized to make all reasonable rules and regulations for the enforcement of its orders and for the conduct of proceedings before it. Anyone operating works

for the treatment of sewage before it is discharged into any State waters or upon the shores or beaches thereof, must keep such accurate records of operation as may be specified by the Division and must submit a true copy of the same to the Division at such intervals as may be required. Such records must be signed by the operator or his agent. The Chief of the Division, the Attorney General, or any agent of the Division, while in the performance of their duties, may at all reasonable times enter any premises, belonging to or controlled by any person believed to be polluting State waters, and such person must allow such entry. Refusal to do so is a misdemeanor punishable by a fine of not more than $500.00 (Secs. 46-12-5,6,7,8,26,29,31).

3. Preservation of existing rights and remedies

Nothing in the Act is to be construed to affect any civil right of action or remedy of any person at law or in equity (Sec. 46-12-18).

4. Exemption from operation of Act

No one can be held to have violated this Act where the sole damage caused by him is the rendering unsuitable for drinking purposes or ice supply the waters polluted by him (Sec. 46-12-30). (However, such person can be prosecuted by the Director of Health for violation of the general statute making such pollution unlawful. See Section III below.) (Secs. 46-14-1, 46-14-4)

III. MISCELLANEOUS STATUTORY PROVISIONS RELATING TO WATER POLLUTION

It is unlawful for anyone to deposit in any of the public tide-waters of the State or upon the shores of the same any fish offal or any water impregnated with fish, unless the same be filtered in such manner as may be determined by the town council of the town wherein such deposit is made (Sec. 20-3-1).

Anyone who wilfully poisons any spring, well or reservoir of water with intent to kill or injure any other person is subject to imprisonment for life or for any terms of years (Sec. 11-16-5).

It is unlawful for anyone to discharge into any well, spring, pond, reservoir or stream any sewerage, drainage, refuse, or other deleterious matter which tends to corrupt or pollute the purity of any such water; or to bathe or wash any animal or clothes therein. This section however does not prevent the enriching of land for agricultural purposes by the owner or occupant thereof, if no human excrement is used. Violation carries a fine of not exceeding $50.00 or imprisonment for a term not to exceed 30 days, or both (Sec. 46-14-1).

It is unlawful for anyone to place, deposit, or explode any substance injurious to the health of fish in any stream or fresh-water pond within the State (Sec. 20-21-14).

IV. INTERSTATE COMPACTS

Rhode Island is a party to the New England Interstate Water Pollution Control Compact (Secs. [illegible]) Laws of Rhode Island, 1947, Ch. 1898, Ch. 1901).

The Governor of Rhode Island is authorized to enter into compacts with the Governors of other States for the protection of water resources of Rhode Island originating outside of Rhode Island and for the protection of water resources of other States originating within Rhode Island (Sec. 46-17-1).

Reproduced from best available copy.